

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/21/2022

SERGIO TORRES, individually and on behalf of others
similarly situated,

Plaintiff,

-against-

GOLDEN HOME FURNITURE INC. d/b/a Golden
Home Furniture; 7 STAR HOME FURNITURE INC.
d/b/a 7 Star Furniture; MOHAMMAD ALDAOU;
FRANK DOE; and DAVID ALDAOU a/k/a Akman,

Defendants.

1:20-cv-4789 (MKV)

ORDER

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff filed a motion for default judgment as to all Defendants in this case. [ECF No. 95.] The Court has carefully reviewed the motion and supporting papers.

The motion is DENIED as to Defendants Mohammad Aldaou, Frank Doe, and David Aldaou for lack of proper service. As an initial matter, Plaintiff never obtained a Clerk's Certificate of Default as to Defendant Frank Doe, which is a prerequisite for a default judgment. There is also no proof of service of the operative pleading on Defendant Frank Doe. With respect to Defendants Mohammad Aldaou and David Aldaou, Plaintiff's own affidavits of service clearly state that service was not made or accepted. [ECF No. 96-4.]

With respect to Defendants Golden Home Furniture Inc. and 7 Star Home Furniture Inc., IT IS HEREBY ORDERED that the parties shall appear on January 31, 2023 at 3:00 p.m. for a hearing on Plaintiff's motion for a default judgment. The hearing will be held in Courtroom 18C of 500 Pearl Street, New York, New York.

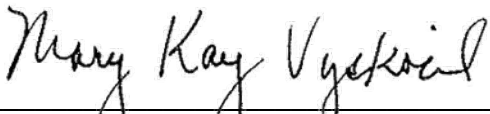
IT IS FURTHER ORDERED that by January 5, 2023, Plaintiff shall: (1) serve on Defendants both a copy of this Order and Plaintiff's motion for a default judgment and all

supporting papers; and (2) file proof of such service on ECF. Any opposition to, or submission in further support of, the motion for a default judgment shall be filed by January 19, 2023.

At the hearing, Plaintiffs should be prepared to show cause why the case against Defendants Mohammad Aldaou, Frank Doe, and David Aldaou should not be dismissed with prejudice for failure to serve and failure to prosecute.

SO ORDERED.

Date: December 21, 2022
New York, NY



MARY KAY VYSKOCIL
United States District Judge